

Notice of Allowability	Application No.	Applicant(s)	
	10/590,477	BARZILAY ET AL.	
	Examiner	Art Unit	
	KAITLYN E. HELLING	3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Amendment filed 04/28/2010.
2. ☒ The allowed claim(s) is/are 1-8, 12, 16-18, 25-28, 33, 37-39, 48, 54, 301, 302 and 304-306.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. <input type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date <u>See Continuation Sheet</u> 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____ |
|--|---|

/KAITLYN E. HELLING/
Examiner, Art Unit 3739

Continuation of Attachment(s) 3. Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date: 05/06/2010, 05/23/2010.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jason H. Rosenblum on July 14, 2010.

The application has been amended as follows:

- a. **Cancel claim 303.**
 - b. **Claim 25, line 5: change "griping" to --gripping--.**
 - c. **Claim 304, line 4: change "griping" to --gripping--.**
 - d. **Claim 306, line 4: change "griping" to --gripping--.**
2. The following is an examiner's statement of reasons for allowance:
- e. The prior art does not teach or fairly suggest a method or device for treating unwanted hair by transmitting acoustic waves at a frequency of from about 150 kHz to about 1300 kHz through the hair so as to generate heat that is sufficient to damage or destroy the follicle, dermal papilla, hair bulge, and/or the germinal matrix as claimed in independent claim 1. The closest prior art WO 00/21612 to Iger teaches two different modes of operation for hair removal. The mode that is analogous with applicants is where the hair is used as the wave guide. However, Iger teaches that the frequency needed is much higher than the range which applicant is teaching. Iger teaches that for that mode of operation

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the frequency should be 5 MHz. The prior art, also, does not teach or fairly suggest a wave condenser for gripping the hair to establish acoustic coupling between the acoustic waves and the hair as in claim 304. The closest prior art to Iger teaches a transducer or acoustic horn that grasps the hair in a similar manner to tweezers. Similarly, the prior art does not teach or fairly suggest a method or device in which at least one of a frequency, a power density and a duration of transmission of acoustic waves is selected such that a characteristic amplitude of longitudinal vibrations of the hair is below 10 μm . The prior art teaches that vibration is useful in the removal of unwanted hair and this characteristic is not minimized in the context of the prior art. In fact, vibration as caused by the transmission of acoustic waves is often the mode of hair removal.

3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAITLYN E. HELLING whose telephone number is (571)270-5845. The examiner can normally be reached on Monday - Friday 9:00 a.m. to 5:30 p.m. EDT.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571)272-4764. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KAITLYN E. HELLING/
Examiner, Art Unit 3739

/Roy D. Gibson/
Primary Examiner, Art Unit 3739